

**COMMISSION MEETING  
THURSDAY, APRIL 8, 2004  
DRAFT MINUTES**

**Chair McLaughlin** called the meeting to order at 1:30 p.m. at the Phoenix Inn Suites located in Olympia. She welcomed the attendees and introduced the members and staff present:

**MEMBERS PRESENT:**   **COMMISSIONER LIZ McLAUGHLIN, Chair;**  
                              **COMMISSIONER ALAN PARKER, Vice Chair;**  
                              **COMMISSIONER CURTIS LUDWIG, Kennewick;**  
                              **COMMISSIONER GEORGE ORR, Spokane;**  
                              **COMMISSIONER ALAN PARKER, Olympia;**  
                              **SENATOR SHIRLEY WINSLEY, Fircrest;**  
                              **REPRESENTATIVE ALEX WOOD, Spokane;**  
                              **REPRESENTATIVE TOM MIELKE, Vancouver;**

**STAFF PRESENT:**       **RICK DAY, Director;**  
                              **NEAL NUNAMAKER, Acting Deputy Director;**  
                              **CALLY CASS-HEALY, Assistant Director;**  
                              **DAVE TRUJILLO, Acting Licensing Administrator;**  
                              **AMY BLUME, Administrator, Communications/Legal Dept.;**  
                              **JERRY ACKERMAN, Assistant Attorney General;**  
                              **GAIL GRATE, Administrative Assistant.**

**Chair McLaughlin** introduced Neal Nunamaker as the new Deputy Director of Operations, Dave Trujillo as the Acting Administrator of Licensing Services, and our newest ex-officio member, Representative Tom Mielke, from Battleground.

**Employee Service Recognition:**

**Chair McLaughlin** and **Director Day** presented five-year employee service recognition awards to Paralegal Robin Brown and Special Agent Robert Zaher.

**Service Recognition – Partnership:**

**Director Day** announced that five Partnership Program participants were present and explained the program was designed to give staff more information about what other units in the agency do. One of the activities includes having the staff attend a commission meeting. Participants included: Diane Fredrickson–Fiscal Technician, Pat Carlson–Legal Secretary, Jess Lohse–Special Agent, Dan Frey–Special Agent, and Darcey Axon–Special Agent.

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**Employee Achievements:**

**Director Day** welcomed back Assistant Director Cally Cass-Healy, who recently attended and graduated from the F.B.I. National Academy. Assistant Director Cass-Healy received 16 undergraduate and graduate credits through the University of Virginia and maintained an A average during her term there. It was an invaluable experience and an excellent achievement for Assistant Director Cass-Healy and this Commission. Session 216 consisted of 244 men and women from all 50 states, the District of Columbia, Puerto Rico, 24 military organizations, and three federal civilian organizations. **Chair McLaughlin** commented there were only three attendees from the state of Washington and that only 16 of the 244 attendees were women.

**Director Day** reported that Special Agent Adam Carolus graduated from the Basic Law Enforcement Academy, and mentioned that the Commander of the academy commented that Special Agent Carolus was one of the nicest young men that he has ever seen at the Academy.

**Director Day** congratulated Susan Blanchett and Kevin Maxwell for completing the requirements for their Certified Fraud Examiners Certifications.

**1. Agenda Review and Director's Report:**

**Director Day** confirmed the agenda was accurate and no changes were being recommended and he highlighted agenda packet inserts. He proceeded with the Director's reports:

**Administrative Issues:**

**Director Day** highlighted the E-Link message updating staff on Legislative actions and addressed a letter from the National Graduates Association welcoming Cally Cass-Healy to their ranks.

- a) **Staff Appointments:** **Director Day** noted that the appointments are "acting" and are intended to keep the Commission moving ahead until a number of budget and organizational decisions are made. Director Day introduced Acting Deputy Director Neal Nunamaker, who joined the Commission in June of 1975. Mr. Nunamaker brings a wealth of experience to the position—he has held several agency management positions. He is a graduate of Washington State University and the Basic Law Enforcement Academy.

**Director Day** welcomed Acting Licensing Services Administrator Dave Trujillo to the management ranks of the Commission. Mr. Trujillo joined the Commission in 1992 after receiving his degree from Central Washington University. He is a graduate of the Basic Law Enforcement Academy and holds a Certified Public Accountant's license. Mr. Trujillo's most recent position at the Commission was supervisor in the Criminal Intelligence Unit.

**Director Day** announced that Amy Blume has been designated as the agency's Legislative Liaison. Ms. Blume obtained her law degree from the University of Puget Sound and started with the Commission in 1994 as a Compliance & Hearings Legal Advisor. Ms. Blume currently holds the position of Administrator of Communications and Legal Division.

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**Director Day** reported that this group represents a collective 51 years of agency experience that will be very effective for the Commission. Director Day advised that with Ed Fleisher's retirement last month other changes were made affecting the way the agency deals with the public and tribes. Director Day will be assuming primary contact for tribal and compact negotiation issues, with direct support from the legal division and, when needed, from Assistant Attorney General Jerry Ackerman. Community impact or 2 percent community contribution work will be handled by the agency's Tribal Gaming Unit.

- b) Correspondence: **Director Day** referred the Commissioners to letters from the Indian Gaming Association, Washington State Council on Problem Gambling, and the Chair of the Senate Commerce and Trade Committee and Majority Leader relative to the Governor's veto and problem gambling issue. Director Day reviewed the March 18 letter from the Commission to Governor Locke requesting he veto the \$3 million fund transfer. The letter outlined the Commission's concerns in more detail and clarified there is no excess fund balance. The letter advised the fund transfer would impair the Commission's ability to protect the public through gambling regulation and explained that the Gambling Commission plans on a fund balance when setting expenditures and fees to support ongoing operations. A transfer to the general fund would remove over 50 percent of that balance, which is budgeted for gambling enforcement and regulation, and directly impact services. The letter also suggested the Commission would be in a position to address problem gambling if Governor Locke vetoed the entire transfer. Commission representatives met with Governor Locke on March 26 to present this message in person. **Chair McLaughlin** thanked Commissioner Ludwig, Director Day, and Assistant Attorney General Ackerman for attending the meeting with Governor Locke.

**Director Day** explained the memorandum from Supervisor Kathy Mills was created in response to questions from Commissioner Parker, and provides additional information about the Gambling Tax Report. The table details taxes attributed to the unincorporated areas of each county. Based on licensee-reported information for fiscal year 2003, there was \$8.3 million (19 percent of the total \$44 million) in gambling taxes coming from unincorporated areas (going to the county governments). Similarly, the net receipts for the counties accounted for 21 percent of the total net receipts for the state.

**Director Day** reported the letter from the Council on Problem Gambling answers a request from Commissioner Parker for clarification regarding the previous studies that had been conducted and cites some of those statistics. Director Day found it interesting that illegal sports betting was third on the list of prevalent problem gambling,

- c) Legislative Update: **Director Day** reported that the Commission tracked 22 different pieces of legislation, attended 19 scheduled meetings with Legislators, and participated in 13 hearings, in addition to any informal contacts the Commission made.

House Bill 2459: **Director Day** advised this was the final budget – Engrossed Substitute House Bill 2459, the substitute budget, and contains the Governor's veto message. The applicable provision to the Commission on page four refers to Section 802, Page 207.

Director Day read: “I have vetoed this transfer of \$500,000 from the Gambling Revolving Fund to the General Fund to enable the Gambling Commissioners to resume its contribution to the Council on Problem Gambling. Although the Gambling Revolving Fund is nonappropriated, it is my expectation that the Gambling Commission will follow through on the intent to provide additional funding to address the critical issue of problem gambling.” Director Day recalled that both the House and Senate versions proposed a \$3 million transfer and referenced the excess fund balance. There was different language in the House version with two separate transfers to the General Fund of \$2.5 million General Fund and \$500,000 to Problem Gambling in support of the bill that was introduced. If that bill didn’t pass then the \$500,000 would transfer to General Fund. The final bill basically combined the two versions and the Governor vetoed the \$500,000 transfer.

**Commissioner Parker** inquired whether Director Day had any sense of the history behind the provision “The Commission shall not increase fees during the 2003-2005 fiscal biennium for the purpose of restoring the excess fund balance transferred under this section” or whether there was discussion on the record among the Legislators regarding the language. **Director Day** responded that the language came from the Senate version – it was not in the House version – and essentially blended with the Senate language. The language directly above said “... state general fund such amounts as reflect excess non-tribal fund balance ...” directing the transfers come from non-tribal funds and also directing that there be no fee increase to replace the excess fund balance.

**Chair McLaughlin** disagreed with the Legislature on the word excess and asked whether Senator Winsley could explain how the term excess was added. **Senator Winsley** didn’t know the answer. **Commissioner Parker** affirmed the Commission took the position that there are no excess funds; therefore, this provision was essentially nonconsequential because it refers to something that doesn’t exist. **Mr. Ackerman**, Assistant Attorney General, was not aware of any place in this or other legislation, where the term “excess fund balance” was defined with regard to the Gambling Commission. Mr. Ackerman believed that when this enactment is read together with the already existing statutes establishing the Gambling Commission, that if the Commission needed to raise fees in order to maintain essential functions, it may do so. The Commission’s enabling legislation directs fees to be set at a level sufficient to fund the necessary operations of the agency. To the extent that the Commission determines whether fees need to be raised for that purpose, Mr. Ackerman did not believe this proviso would limit or prevent the Commission from raising fees. However, if the Commission simply decided to raise fees to recreate the \$2.5 million transferred by the Legislature, that would be questionable given the circumstances of the Legislation. Commissioner Parker acknowledged that if there are no excess funds, no funds could be transferred.

**Mr. Ackerman** understood the logic and suggested that in essence, the \$2.5 million was in the hands of the State Treasurer, who would make the transfer from this fund to the General Fund. The issue becomes not whether the Commission could prevent the transfer of the \$2.5 million, but whether the Commission needed to raise fees in order for the agency to be able to perform its essential function. Mr. Ackerman repeated that a fee

increase for that purpose would be permissible; however, a fee increase to raise an additional \$2.5 million not necessary for essential operations would in all likelihood be prohibited by this language. **Director Day** suggested the language created two misnomers. First, the fund balance blends nontribal and tribal dollars into one fund balance. He explained that it has always been the Commission's position and direction that the Commission collects, as Attorney General Ackerman advised, those fees necessary under Title 9.46, including regulation of the tribal compacts and non-tribal licensees. As those funds are collected, they go into the revolving account and the bills are paid from that account. Secondly, Director Day reiterated the Commission does not have excess funds in the fund balance, nor does the fund balance identify tribal or non-tribal dollars.

House Bill 1667: **Director Day** reported that the zoning bill passed the House and was pending a vote in the Senate. The Senate did not act before the cut off date; therefore, the bill died. Senate staff informed Director Day that a Legislative Work Session for this bill is planned for early fall. Director Day felt another version may be brought forward next session.

House Bill 2776: **Director Day** reported this bill died in the Senate because action was not taken. The major direction of this bill would have set up a task force to identify a permanent funding source for problem gambling treatment, education, and awareness. The bill also called for temporary funding of \$500,000 from the Gambling Commission's Fund Balance. Another version of the bill had \$500,000 from the Commission and \$500,000 from the Lottery. When that bill ultimately failed, it carried only the \$500,000 from the Commission. Director Day pointed out that the Commission provided funding support for the Council on Problem Gambling for 13 years and contributed approximately \$1.1 million dollars to the Problem Gambling Council for education and awareness – probably the largest single source of funding for the Council. **Director Day** mentioned the Commissioners had authorized the Commission to explore a contract extension increase for Fiscal Year 2003-05 to provide an additional \$50,000 for awareness and training, pending full confirmation from the Problem Gambling Council. In the event the first recommendation from the Council for a new prevalence study in Washington didn't come forward, the Commission authorized \$75,000, pending a match from the Lottery. Director Day reported that a work session on this particular issue is planned on July 26 with the Senate Commerce and Trade Committee. Director Day suggested the Commissioners may want to revisit the problem gambling issue and provide staff with additional direction, especially in light of the Governor's veto.

**Director Day** offered a general outline, subject to the Commission's modification, to start a process to reconfirm the Commission was on solid ground for revenue and expense projections. Once completed, staff would bring forward a budget recommendation for reductions and present a draft recommendation for the Fiscal Year 2005-07 new biennium budget at the July commission meeting. Staff would prepare a draft fee increase for Commission deliberation, and look closely at reductions in services that may be necessary in order to balance the budget and ensure the Commission doesn't have to operate in the red in future years.

**SB 6481:** **Director Day** reported this legislation was the Pari-Mutuel Wagering Bill and confirmed it was signed by Governor Locke on April 1. Director Day noted this bill increased the simulcast races currently available in the state, particularly at satellite locations, and authorized account wagering via telephone or the Internet.

**Initiative 885:** **Director Day** explained the summary information was provided at the Commission's request. Initiative 885 was changed to Initiative 892, and Director Day believed another edition is being developed. The Initiative is similar to Legislation that was introduced in the 2003 session – House Bill 1948. The primary difference is that the electronic machines authorized in this proposal would be regulated and distributed through the Lottery, who would impose a 35 percent tax that would be directed to an equivalent state property tax reduction. **Chair McLaughlin** thought she understood that the Lottery would ultimately be responsible for supplying and managing the machines in places the Commission currently licenses and regulates, and asked if that meant there would be two regulatory agencies looking at the same thing – the Gambling Commission regulating machines in the Native American casinos, and the Lottery regulating machines in the rest of the licensed establishments. **Director Day** affirmed that the Initiative required the business to have a gambling license from the Gambling Commission in order to be eligible for machines, but the electronic machines would be supplied and regulated by the Lottery Commission. Chair McLaughlin pointed out that the Lottery would have to start a whole new regulatory system, which already exists with the Gambling Commission. She questioned whether it wouldn't have been better to have the Lottery contract with the Gambling Commission for the regulation. Director Day explained that if the petition gained the appropriate number of signatures, it would go through a process very similar to the fiscal note process – Revenue, Lottery, and the Commission would submit their impacts, and it would go through an analysis on whether it would qualify.

- d) **Court Decisions:** **Director Day** addressed two significant decisions. Bullseye Distributing, which has also been referred to as "Free Spin," relates to an electronic gambling device baseball card machine. This ruling was from Thurston County Superior Court Judge Casey on March 12, 2004, and upheld the Gambling Commission's decision that the device was a gambling device. The decision contained some direct statements making a case that this was a patented promotional device. The Judge agreed that the standard by which the device was measured was an objective one, not dependent upon the subjective intent of the designer, which is the way the Commission has approached these types of issues. The Commission has been informed that Bullseye has appealed this ruling to the Court of Appeals in Tacoma.

**Director Day** also addressed the Cascade Food Service case where the Administrative Law Judge upheld the Commission's denial of the card room license relative to the nonprofits application. At this point, the review time of 20 days has expired and no request for review has been filed with the Commission. However, there is a 30-day time frame relative to a request for a court review.

## 2. Qualification Review:

### **Sno-King Amateur Hockey Association, Kirkland**

**Special Agent Michele Chewerda** reported the qualification review for this organization was completed for the fiscal period ending June 30, 2003. The organization was formed in 1965 with the mission to teach young people the game of hockey while instilling the values necessary to compete in life. Sno-King Amateur Hockey Association provides an ice rink open for public use and for use by other youth organizations. The organization provides affordable youth sports and scholarships to players who would otherwise be unable to play. The organization currently holds Class L Bingo, Class O pull tab, Class A commercial amusement game, and Class D raffle licenses. Sno-King Amateur Hockey Association made significant progress towards their stated purpose and qualifies as a nonprofit conducting Bingo. Staff recommends Sno-King Amateur Hockey Association be certified to conduct gambling activities in the state of Washington as a nonprofit organization. Ms. Chewerda introduced Executive Director Arthur Baldwin.

**Arthur Baldwin** introduced Lee Boule, a long-time board member and offered to answer questions. **Commissioner Ludwig** inquired about the operating expense figures, noting the organization was consistent with the area's statewide average; however, other operating expenses were a third more (30 percent). Mr. Baldwin responded that he didn't know what that item had to do with the ice rink operations and he didn't have that information in front of him. **Chair McLaughlin** asked whether the organization had any additional rental expenses or if they were buying something. Mr. Baldwin acknowledged that the Association has an expensive lease on the building (about \$16,000 a month) and that it is one of their biggest hurdles. **Commissioner Orr** asked about the duration of the lease. Mr. Baldwin believed they had another 12 years on the Bingo hall lease. He reported they own the building for the ice rink

**Senator Winsley** inquired whether the fees were just for the ice rink and whether they were for ice hockey players or for all ice skaters. **Mr. Baldwin** responded the Youth Hockey Program fees range between \$550 and \$900, depending upon the level of the team and the ice time. Fees are for all ice skating—leases for ice hockey primarily, and for figure skating as well as outside skating groups. **Director Day** mentioned that Sno-King Amateur Hockey Association at one time faced possible revocation proceedings for adjusted cash flow, and he noted they surrendered their license and came back at a lower class. They have exceeded their required cash flow in both the third and fourth quarters of 2003.

**Commissioner Orr** made a motion seconded by **Commissioner Ludwig** authorizing Sno-King Amateur Hockey Association to be certified to conduct gambling activities in the state of Washington as a nonprofit organization. *Vote taken: the motion passed with five aye votes.*

## 3. House-Banked Card Room Review:

### **Wild Goose Casino, Ellensburg**

**Licensing Services Supervisor Collene Kiefer** reported that Ellensburg Gaming Incorporated is doing business as the Wild Goose Casino located in Ellensburg. Ellensburg

Gaming Incorporated applied for a license to operate eight tables of house-banked card games. Ellensburg Gaming Incorporated was formed as a privately held corporation in November 2003, and their corporate headquarters is located in East Wenatchee. Ellensburg Gaming Incorporated ownership consists of President Max Faulkner (22.68 percent), Vice President Michael Meier (20.62 percent), Janet Buzard (15.46 percent), Douglas Herrall (10.31 percent), George Greene (9.28 percent), Harry Michelson (5.15 percent), Susie Pulp (5.15 percent), Perry Lamb (4.12 percent), Lewis Ridings (3.09 percent), Jerome Howl (2.06 percent), and Thomas Ruddy (2.06 percent). The corporation does not hold any other gambling licenses; however, the individuals do have ownership in other licensed entities.

Special agents from the Financial Investigations Unit conducted a criminal and history background investigation on all of the substantial business holders and their spouses, as well as completing a financial investigation on both the corporation and personal stockholder finances. No disqualifying information was found. Special agents from the Field Operations Division completed an onsite preoperational review and evaluation (PORE), and the applicant was found to be in compliance with the rules of the Commission. Based on the licensing investigation and the onsite PORE, staff recommends that Ellensburg Gaming, doing business as Wild Goose Casino, be licensed as a house-banked public card room authorized to operate up to eight tables.

**Commissioner Parker** asked if there was any particular significance to the interlocking ownership arrangement or if there were any other regulatory considerations. **Ms. Kiefer** responded that the agents found nothing that would prohibit the organization from having a license in this particular entity. **Deputy Director Nunamaker** affirmed that it could become interesting if a licensee became unqualified because it could affect the other licensees. **Commissioner Niemi** asked if that would be unusual. **Ms. Kiefer** responded it used to be; however, more of the interlocking ownerships are being seen with house-banked card rooms.

**Commissioner Parker** inquired whether an analysis was available of the industry standard in terms of returns on investments, or profits made from invested capital. **Director Day** responded the Commission doesn't have information relative to the return on invested capital. The Commission may have the amount of receipts that a particular operation has and, in effect, where the funding comes from because staff identifies the amount of investment and traces those funds back in each of those cases. He indicated that it might be possible, although time consuming, to try to track through all that information. The charts demonstrate the regulatory concern, being able to track the person involved in the business, tracing those funds back to where they came from, and whether those sources are legitimate. Director Day reminded the Commission that staff provides an annual presentation regarding how ownerships are changing with house-banked card rooms and if there are increasing numbers of multiple and interconnecting ownership.

**Commissioner Ludwig** made a motion seconded by **Commissioner Orr** to license Ellensburg Gaming Incorporated, d/b/a/ Wild Goose Casino in Ellensburg as a house-banked card room authorized to operate up to eight tables with a maximum bet limit of \$100. *Vote taken; the motion passed with five aye votes.*



### **House-Banked Card Room Status Report:**

**Ms. Kiefer** reported there are now 86 house-banked card rooms – 82 are licensed and operating and four are licensed but not operating. There are nine applications pending.

#### **4. New Licenses and Tribal Certifications:**

**Commissioner Ludwig** made a motion seconded by **Commissioner Niemi** to approve the new licenses, changes, and Class III tribal certifications as listed on pages one through 25 on the approval list. *Vote taken; the motion passed with five aye votes.*

#### **5. Defaults:**

##### **Fraternal Order of Eagles #00564, Tenino:**

**Arlene Dennistoun**, Staff Attorney, reported the Fraternal Order of Eagles #00564 located in Tenino failed to submit its quarterly activity report within the 30 days required by Commission rules. The licensee previously violated an Agreed Order that settled charges issued for failing to timely submit its quarterly activity reports. The Director issued charges, which were sent by U.S. first class mail, and the licensee failed to respond to those charges. The charges explained clearly that staff must receive a hearing request within 20 days, and a cover letter outlined the deadlines for responding to the charges. Staff telephoned and spoke with the licensee's president, Allen Davis, and informed Mr. Davis that the license would be revoked in a Default Order if the licensee failed to respond. Although Mr. Davis said they would be sending a request, staff has not received a response. Therefore, staff requests a Default Order be entered. **Chair McLaughlin** asked if anyone was present from the Tenino Fraternal Order of Eagles – there was not.

**Commissioner Ludwig** made a motion seconded by **Commissioner Orr** that a Default Order be filed to revoke the Fraternal Order of Eagles #00564 license to conduct gambling activities. After clarifying discussion regarding the actual order dates, a *Vote was taken; the motion passed unanimously.*

##### **Rib Eye Restaurants, Olympia and Chehalis:**

**Ms. Dennistoun** reported that Robert Reeves, the sole owner of both Hamilton Corner's Rib Eye Restaurant and the Olympia Rib Eye, pled guilty in January 2004 to four counts of Child Molestation in the Second Degree. Pursuant to RCW 9A.075, Subsection 4, these are crimes of moral turpitude and physical harm to another. The Director summarily suspended both licenses. A cover letter outlined the deadlines for responding and was sent with the charges by U.S. first class mail, and the summary suspension orders were personally served on the licensee. No response was received to the charges, thus waiving Mr. Reeves' right to a hearing. Mr. Reeves was also entitled to an adjudicative proceeding, but failed to request a hearing. A special agent met with the managers of both establishments and reminded them that a response to the charges was due. The managers said they understood, but no response was received. Staff requests a default order be entered revoking both establishments' licenses.

**Commissioner Niemi** asked about the specific RCW that subjects someone with a crime involving moral turpitude to have their license revoked. **Ms. Dennistoun** replied that RCW 9.46.075, Subsection 4, enumerates a list of specific offenses, including general crimes of moral turpitude. **Chair McLaughlin** asked if anyone was present representing the two Rib Eye Restaurants – there was not.

**Commissioner Orr** made a motion seconded by **Commissioner Ludwig** that a Default Order be filed to revoke the licenses of Hamiltons Corner Rib Eye Restaurant and Olympia Rib Eye to conduct gambling activities.

**Commissioner Orr** amended his motion to approve the Default Order with added language specifying RCW 9.46.075, Subsection 4, in the violation. **Commissioner Niemi** agreed that specifying the RCW subsection in the default order was important because Mr. Reeves' crime wasn't gambling related.

**Commissioner Orr** made a motion seconded by **Commissioner Ludwig** to approve the amended Default Order. *Vote was taken; the motion passed unanimously.*

**Marina Ybanez, Card Room Employee, Skyway Park Bowl Casino, Seattle:**

**Ms. Dennistoun:** reported that Marina Ybanez, while employed as a card room employee, admitted she stole \$300 from the Skyway Park Bowl and Casino. The Director issued charges to Ms. Ybanez, which were sent by U.S. first class mail. A cover letter outlined the 20-day response requirement; however, Ms. Ybanez did not respond to the charges. Staff attempted to call Ms. Ybanez at the telephone number provided. A message was left on the answering machine requesting Ms. Ybanez call, which she never did. Staff requests a default order be entered revoking Ms. Ybanez's license.

**Commissioner Ludwig** asked whether this would prevent Ms. Ybanez from transferring her card room employee license to a new employer if no action were taken since Ms. Ybanez's license does not expire until June; although the licensee is not currently working in any gambling-related activity or capacity. **Ms. Dennistoun** affirmed that a transfer from one employer to another would be an automatic process – once a licensee has been qualified to hold a license, that license is good for the entire year unless the Commission revokes it. **Chair McLaughlin** asked if Ms. Ybanez or a representative was present – there was not.

**Commissioner Orr** made a motion seconded by **Commissioner Ludwig** that a Default Order be filed to revoke Marina Ybanez' license to conduct gambling activities. *Vote taken; the motion passed unanimously.*

**Marguerite Montenero-Dawes, FOE #1444, Concrete:**

**Ms. Dennistoun** reported that Marguerite Montenero-Dawes, while employed as a nonprofit gambling manager, failed to record and deposit gambling receipts resulting in losses of over \$7,000 for the Fraternal Order of Eagles #1444 in Concrete. Staff believes Ms. Montenero-Dawes is not currently working in any gambling activities. The Director issued charges to Ms. Montenero-Dawes, which were sent certified and first class U.S. mail. A cover letter outlined the 20-day deadline; however, the licensee failed to respond. The certified card was

returned listing a different address. The charges were mailed to the address listed on the certified card, and the 20-day deadline was extended. Ms. Montenero-Dawes did not respond. Staff requests a default order be entered revoking Ms. Montenero-Dawes' license. **Chair McLaughlin** asked if anyone representing Marguerite Montenero-Dawes was present – there was not.

**Commissioner Ludwig** made a motion seconded by **Commissioner Orr** that a Default Order be filed to revoke Marguerite Montenero-Dawes' license to conduct gambling activities. *Vote taken; the motion passed unanimously*

**Commissioner Parker** commended staff on a very thorough job of backing up the report and the Default Order with detailed resolution of the facts.

**Chair McLaughlin** called for public comments.

**Gary Hanson**, Executive Director, Council on Problem Gambling, informed the Commission that the Council was working with various entities to develop a comprehensive plan. One of the key issues of the bill before the Legislature was the task force, and after the bill failed, Senator Honeyford and Representative Conway advised they intended to hold interim hearings to help solve the problem. Mr. Hanson advised the Council planned to have a solution for them to use as reference during those hearings, and in the interim, the Council would try funding the treatment program. Mr. Hanson affirmed the Gambling Commission has had a long standing 13-year relationship with the Council on Problem Gambling, and at one point had a \$150,000 contract that was reduced to \$23,000-\$24,000 to support the Help Line. Mr. Hanson reported the Council would like to renew the relationship with the Gambling Commission and encouraged the Commission to step forward and fill the breach while the Council tries to develop legislation to fund the entire comprehensive program for treatment. The Council will be working on ideas for one or more plans and hoped to have something ready for the May commission meeting.

**Dolores Chiechi**, Executive Director, Recreational Gaming Association (RGA) and member of the Advisory Council for the Council on Problem Gambling and the Industry Working Group on Problem Gambling. Ms. Chiechi welcomed Representative Mielke to the ex officio position on the Gambling Commission and congratulated Neal Nunamaker, Dave Trujillo, and Amy Blume on their promotions and Cally Cass-Healy on her graduation from the FBI Academy. Ms. Chiechi reported that the RGA supported the Council on Problem Gambling and the treatment funding proposal that did not reach conclusion this legislative session. Ms. Chiechi explained the Industry Working Group is unprecedented across the nation and has been able to gather all segments of the industry, including horse racing, lottery, tribal representatives, and the commercial and the nonprofit industry, to come together and be proactive in the area of problem gambling. The group plans to work together to produce some ideas on a permanent funding source and ensure it is a priority for those that profit from receiving gambling money. The group is anxious to provide input and represent the card room industries. Ms. Chiechi looked forward to the work session that Senator Honeyford called to draft language agreeable to the industry, as well as the treatment providers in the industry, and the insurance companies that help those who have a problem

gambling issue. Ms. Chiechi informed the Commission that the RGA Board met and voted to support the Governor's veto message and to request the Gambling Commission consider offering some of the returned funds, which came from the gambling industry, to the Council on Problem Gambling.

**Chair McLaughlin** called for a recess at 3:10 p.m. and reconvened the meeting at 3:30 p.m.

6. **Petition for Review and Motion for Reconsideration:** **Chair McLaughlin** announced that Commissioner Niemi would act as the Hearing Officer.

**Wreck Tavern, Port Angeles:**

**Edward J. Becker, Owner**

**Sara Olson, Assistant Attorney General** and **Petitioner Edward Becker** presented their cases. A transcript of the hearing is on file. At the conclusion, Commissioner Niemi called for an executive session to deliberate the case. The Commission recessed at 3:45 p.m. and reconvened at 3:55 p.m.

**Commissioner Orr** made a motion seconded by **Chair McLaughlin** to suspend the pull-tab license for the Wreck Tavern for seven days. *Vote taken; the motion passed unanimously.*

**Teresa Wright:**

**Ms. Wright** was not present. **Sara Olson, Assistant Attorney General** presented the case and requested that the petition for reconsideration be denied. A transcript of the hearing is on file.

**Commissioner Parker** made a motion seconded by **Commissioner Ludwig** to deny the Petition for Reconsideration in the matter of Teresa Wright. *Vote taken; the motion passed unanimously.*

7. **Other Business/General Discussion/Comments from the Public**

**Director Day** directed the Commissioners attention to a letter from Representative Lynn Kessler referencing problem gambling. Also distributed were two brochures from the Kalispel Tribe documenting their local problem gambling treatment efforts.

**Chair McLaughlin** announced that this year's election of officers would be held at the May commission meeting. Chair McLaughlin recessed the meeting at 4:00 p.m. to conduct an executive session for the purpose of discussing pending investigations, tribal negotiations, and pending and potential litigation.

**Chair McLaughlin** reconvened the meeting at 5:40 p.m. and announced that Friday's meeting would commence at 9:30 a.m. With no further business, she adjourned the meeting at 5.40 p.m.

Minutes submitted by:  
Gail Grate, Administrative Assistant

**COMMISSION MEETING  
FRIDAY, APRIL 9, 2004  
DRAFT MINUTES**

**Chair McLaughlin** called the meeting to order at 9:35 a.m. at the Phoenix Inn Suites located in Olympia.

**MEMBERS PRESENT:** COMMISSIONER LIZ McLAUGHLIN, Chair;  
COMMISSIONER ALAN PARKER, Vice Chair;  
COMMISSIONER CURTIS LUDWIG, Kennewick;  
COMMISSIONER GEORGE ORR, Spokane;  
COMMISSIONER ALAN PARKER, Olympia;  
SENATOR SHIRLEY WINSLEY, Fircrest;  
REPRESENTATIVE TOM MIELKE, Vancouver;

**STAFF PRESENT:** RICK DAY, Director;  
NEAL NUNAMAKER, Acting Deputy Director;  
CALLY CASS-HEALY, Assistant Director;  
DAVE TRUJILLO, Acting Licensing Administrator;  
AMY BLUME, Administrator, Communications/Legal Dept.;  
JERRY ACKERMAN, Assistant Attorney General;  
GAIL GRATE, Administrative Assistant

**Special Agent Commissioning:**

**Director Day** introduced Ron Baldwin and Steve Steiner, two new special agents assigned to the Tribal Gaming Unit, and performed their oath of office/commissioning. **Chair McLaughlin** presented the agents with their badges and affidavits were signed.

**9. Approval of Minutes:**

Commissioner Orr made a motion seconded by Commissioner Ludwig to approve the meeting minutes of the regular meeting of March 11 and 12, 2004, as presented. Vote taken; the motion passed with five votes.

**10. Staff Presentation:**

**Service Delivery (Governor's Executive Order 03-01):**

**Licensing Supervisor Dawn Warren** provided a PowerPoint presentation regarding the Commission's efforts to improve service delivery and to support the Governor's Executive

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Order 03-01. A copy of the Governor's cover letter and his Executive Order were included in the agenda packet. Ms. Warren reported that service delivery is considered a priority for the agency, as staff continually assess and streamlines many of the services provided to customers and stakeholders. Although the Commission is not a cabinet agency and not required to comply with the order, staff felt it was important to improve service delivery and to treat customers and stakeholders professionally and with respect. Being a regulatory law enforcement agency, staff found themselves in a balancing act of meeting the needs and expectations of the agency's customers and stakeholders while fulfilling the statutory authority, mission, and responsibility to protect the public by ensuring that gambling is legal and honest.

**Ms. Warren** outlined the Governor's directives and expectations. She reported that prior to his retirement; Assistant Director Fries began researching the agency's service delivery and sought input from the agency leadership team to identify focus areas. The expectations have been established and staff held accountable. Ms. Warren presented steps the agency takes to reduce complexities and provide improved services, allowing the agency to be more efficient and effective. Ms. Warren reviewed the customer feedback form project. She explained that staff contacted each person expressing concern or dissatisfaction in an attempt to resolve any issues. A positive outcome of the survey comments has been personalized thank you comments from customers staff have served and, in turn, staff receiving recognition from their supervisors for a job well done. The agency spent much time establishing performance measures and setting goals that are specific, measurable, attainable, realistic, and with specific time frames. In addition, the Strategic Planning Team worked with staff to establish additional measures and to clarify existing measures. Agency staff have an understanding of the needs and expectations of their customers and stakeholders and have a strong commitment to providing quality services while looking for opportunities to improve. The results of customer surveys and efforts to improve service delivery will be made available to staff and agency customers, and Service Delivery Progress Reports will be presented quarterly to the Agency Leadership Team.

**Chair McLaughlin** appreciated the work performed by staff. **Commissioner Niemi** congratulated Ms. Warren and staff on a wonderful job, and for taking the Governor's Directive seriously. **Senator Winsley** complimented Ms. Warren on her efforts and addressed the expectations of same day email responses. Senator Winsley admitted it was practically impossible for Legislators to respond the same day to emails and phone calls received and inquired if Commission staff were really able to maintain that goal. **Ms. Warren** responded that agency staff didn't have the volume of emails that Legislators experience and she noted staff aren't required to provide an answer the same day – just a response that the message was received and that staff would research and respond with an answer to the question or concern. **Commissioner Orr** appreciated the presentation and commended staff on their tremendous esprit de corp. Commissioner Orr noted that agency staff were zealous and conscientious, and that the Commission has noticed. **Commissioner Parker** cautioned that service delivery may be impacted when the effect of budget reductions are assessed. Commissioner Parker noted that this question may be revisited in the future and thanked Ms. Warren for the presentation.

**Chair McLaughlin** asked whether the Commission wanted to address the \$2.5 million transfer that was discussed in yesterday's executive session. **Mr. Ackerman** affirmed the topic was appropriate to discuss in Executive Session because of potential future litigation.

**Commissioner Parker** made a motion that Director Day prepare a request to the Attorney General for an official opinion on the legality of the budget reduction. He emphasized that it should be looked at from as many different perspectives as relevant, including whether this conflicts with Commission responsibility under enabling law to focus any expenditure of funds on regulatory purposes and whether diverting the funds into the treasury, essentially treating them as tax funds, could cause the agency to be perceived as another tax collection agency. **Commissioner Niemi** seconded the motion.

**Chair McLaughlin** called for further discussion on the advisability of asking for an Attorney General's opinion. **Representative Mielke** thought the debate concerned how much the Commission had in reserve. **Commissioner Orr** reiterated that none of the funds in the Commission's account are General Funds money, the funds are fees paid by our licensees. Under the statute of the 70's, the Commission was responsible for raising funds to regulate the gambling industry. The Commission sets a budget in October based on funds necessary to run the agency as efficiently as possible, with limitations from I-601 and enabling legislation. He noted that when the funds are declared surplus, which they are not, the Commission becomes frustrated and questions whether the state of Washington is entitled to those funds. Representative Mielke explained that Legislators still weigh that with the same authority. **Chair McLaughlin** added that she has seen almost \$5 million dollars transferred from the revolving fund and that she would like a legal answer from the Attorney General.

**Director Day** explained part of the problem arises when "reserve" or "excess" terms are used when the account is actually a revolving account. As the Commission prepares their budget, a total fund balance must be considered to provide the ability to cover any increases authorized by the Legislature and any capitol improvements needed – everything authorized must come from the Commission's fund. The current fund balance is \$5.7 million – this transfer would equal approximately 50 percent of the balance, leaving the Commission in a position of possibly operating in the red within a year and a half. **Commissioner Parker** speculated that without the money in the revolving fund, the Commission would not be able to regulate gambling; although the Legislature established the Commission to ensure citizens are protected. **Chair McLaughlin** also addressed the Commission's responsibility for law enforcement and reminded the Commission that gambling has increased in the state. Chair McLaughlin observed that licensees want their businesses to be honest – they want their customers treated well and to have a good time. The Gambling Commission makes that possible by keeping gambling legal and honest. The Commission has had 30 years with no large scandals. Chair McLaughlin recognized the prudence of asking for the Attorney General's opinion.

**Commissioner Parker** pointed out there had been debate between the Commission and the Governor's Office of Financial Management on whether this agency should contribute similar to other agencies. The Commission's position was that the law establishing the Commission specifically kept the agency from operating out of the General Fund. He

believed an Attorney General's opinion would assist in resolving that view and informing the Legislature on how the agency's funds should be treated. **Commissioner Parker** noted one of the other provisions of the bill was to exempt tribal funds. Under Compact provisions, the tribes pay the Commission a fee to regulate the tribal casinos and work with the tribal regulatory agencies through a joint regulatory program. Under federal law, the state of Washington can not impose a tax on the tribes. If tribal money is transferred from the Commission's account to the General Account, the state was essentially taxing the tribes. Recognizing that, the bill eliminated tribal money from the \$2.5 million dollar assessment. The Commission's position has been that the money can not be segregated – it would require setting up two separate accounts. That is another legal question for the Attorney General.

**Director Day** reported the Commission was aware of the state's budget crisis. As a public agency responsible for a fund separate from the General Fund, the Commission reduced 15 FTEs and submitted a budget this biennium that was lower than the previous biennium, demonstrating the Commission takes its judiciary responsibility very seriously, as assigned through separate authority in the Legislature. The impression that the Commission operated without regard to the financial crisis facing state government is incorrect. However, the Commission recognized that gambling and its frequency were increasing in the state and that continued presence from the Commission was required.

**Commissioner Parker** made a motion seconded by **Commissioner Niemi** directing **Director Day** to prepare a request to the Attorney General for an official opinion on the legality of the budget reduction. *Vote taken; the motion passed unanimously.*

**Representative Mielke** thanked the Commission and explained the importance of the Commission educating the Legislators. Representative Mielke felt a disconnect may have caused the issue.

#### **11. Bingo Licensees Operating at Multiple Locations within a County:**

##### **WAC 230-04-192 and WAC 230-04-196**

**Administrator Amy Blume** reported this rule was filed after the February Commission Meeting and repeals two rules. It would require a licensee to have a license for each location they operate Bingo, and would remove the restriction and allow them to operate more than one Bingo operation within the county in which they are located. At the February meeting, Don Kaufman, Big Brothers/Big Sisters in Spokane, testified that the organization was concerned about potential dominance by one or more nonprofit organizations if this were allowed. Vicky Sitiacum, Boys and Girls Clubs of South Puget Sound, testified that their organization would like the option of opening two facilities that are not in the same immediate area. Julia Puckett testified that the organization was interested and would research potential areas to ensure their Bingo game would not be competing with current games in the area. Ms. Blume advised that staff recommends final action. **Chair McLaughlin** called for public testimony, there was none.

**Commissioner Niemi** made a motion seconded by **Commissioner Ludwig** to repeal WAC 230-04-192 and WAC 230-04-196. *Vote taken; the motion passed unanimously by the four Commissioners present.* (Commissioner Orr temporarily stepped away)



## **12. Petition for Rule Change Submitted by DigiDeal Corporation:**

### **WAC 230-40-070**

**Ms. Blume** reported this rule was approved for filing in March. The petitioner, Bob Tull, represents DigiDeal Corporation. This company submitted a petition two years ago requesting electronic card facsimiles be allowed for house-banked games such as Blackjack (Digital 21). A memo from the agency rules team explained the first petition and the concerns raised at that time. One concern was ensuring the honesty and integrity of the game would remain intact when using the electronic card facsimiles. Because of those concerns, language was included in the rule requiring internal controls, testing by gambling testing lab, and additional standards set by the Commission. In the current petition, DigiDeal Corporation requests that electronic card facsimiles be allowed for all authorized card games, including games that are not house-banked, such as Poker. The petition is very short and only deletes the words “house-banked” from the current rule. DigiDeal has been working on developing a game called Trips 2 and Trips 3. A letter in the agenda packet from Special Agent Keith Wittmers informed the company that the Commission cannot approve either of those games under current rules. The proposed games exceed wagering limits in addition to other regulatory concerns. A memorandum in the agenda packet from the agency Rules Team explains that allowing these games could be considered an expansion of gambling and they recommended that a higher level of regulation be required, and only to allow the games in house banked card rooms. House-banked card rooms have more requirements for internal controls, including surveillance. Currently there are no games that meet the criteria. The issue is whether the Commission wants to pass a rule if there are no current products in existence. Staff recommends further discussion. Ms. Blume introduced Larry Martin, Vice President of DigiDeal Corporation.

**Mr. Tull**, representing DigiDeal, explained that the Commission is being requested to allow the technology that DigiDeal has developed. The technology has been carefully demonstrated in the past and the corporation is requesting authorization to respond to evolutionary trends in the market, namely the increased popularity of Poker. Card rooms that had Blackjack tables are deciding to try Poker games; therefore, DigiDeal would like to offer technology to a card room operator—to put in a Poker table that uses digital facsimile technology. Mr. Martin provided a quick review of the fundamental technology, how it plays, and provided a look at one of the games under development. Mr. Tull affirmed the corporation was responding to some of the concerns raised by Special Agent Wittmers. DigiDeal will develop games that are within Commission requirements; although, the corporation disagrees with some of the contentions. DigiDeal plans to first resolve the issues that need to be resolved, by continuing to work with Commission staff, who recommend the use of these machines be confined to house-banked card rooms. DigiDeal does not resist that restriction and would cooperate to help implement it. The rule provides the agency with tremendous oversight capabilities to ensure that whatever technology and game, whether technological or conventional games, be done safely. Mr. Tull summarized that the corporation believes this is a natural and appropriate business evolution that continues to provide regulatory benefits, and agreed that DigiDeal could work within staff recommendations for this technology to take place under appropriate supervisory conditions, such as in a house-banked card room setting.

**Larry Martin**, Vice President of DigiDeal Corporation, explained that DigiDeal Corporation is one of just a handful of licensed manufacturers that actually reside in the state of Washington. Mr. Martin reviewed the system and expanded on the Poker issue. DigiDeal, is a development company involved in the development of gaming products. The Digital Card System is the primary technology the company developed and patented. Mr. Martin demonstrated how to play their Blackjack game, which is currently approved and licensed. The digital card system is a simple system that shuffles, deals, and displays playing cards as digital card facsimiles. Blackjack was the first game that was developed. DigiDeal started with Blackjack because it was one of the largest card games in the world. A traditional deck of 52 playing cards is used—the system took the deck of 52 cards and randomly shuffled the cards, placing them in a shuffled order. A player is asked to cut the cards, and in this game, the dealer asks the player to cut the cards, the player says cut and the dealer presses the Deal button to cut the cards. Players can easily see where the cut card is, the cards that are out of play behind the cut card, the cards remaining to be played, and the first of the electronic card facsimiles to be dealt out of the shoe. Because of the nature of the technology, Mr. Martin noted an incredible number of features and benefits could be built into this system. He advised that he was personally disappointed and frustrated with the over-regulation of DigiDeal's system, a system designed and recognized by most regulators across the country as being a system that needed less regulation and less attention because of the nature of the cards – they are foolproof.

**Mr. Martin** explained the system benefits four audiences: the casino, the player, the dealer, and the regulatory bodies responsible for regulating gambling around the country. The benefits for the casino are obvious – any opportunity for player/dealer collusion is eliminated. It is impossible to mark the cards, so cheating is eliminated. The technology automatically adds the card totals of all the players' hands, making it impossible for a dealer to make a mistake on a payoff. At the end of the game, the disposition showing the outcome of every hand is available to security, the dealer, and all the players. Washington requires an extensive process for handling paper cards – how to treat the cards and how to dispose of them. Eliminating the need for shufflers would greatly eliminate the time required to train dealers. An incredible amount of data is accessible; although the casino or regulator may not require it everyday, it is there if needed. Currently the information must be downloaded onto a physical print out. The only issue that the company has experienced is the feeling that if a shuffle is too good, the table wins too much money; however, no one has proven that scenario. The advantage to the casino is more profitability because of faster play. The game is easier for the players by cutting down on the intimidation issue by quickly adding their score and, if the casino leaves it in, the system can suggest play strategy for the players. The dealer does not have to know how to add and doesn't have to worry about making payoff mistakes. **Chair McLaughlin** asked whether regular chips are used. Mr. Martin affirmed, stating the only thing replaced was the cards. All of the games are GLI approved before being placed in any jurisdiction, including a number of world wide jurisdictions. The products have full accountability and higher security. There is no card handling, which reduces errors and eliminates cheating.

**Mr. Martin** went on to demonstrate Poker. The company started in Washington and filed an application to be a distributor and a manufacturer. Commission staff recommended the company withdraw the application because the product was not authorized in the state of Washington. The company hired an attorney and visited the Gambling Commission office attempting to have the system recognized. At the time, the primary game was Digital 21 (Blackjack). The Poker games that were being played on the casino floor were primarily house-banked games, like Caribbean Stud, 3-Card Poker, and Let it Ride. In the past two years, there has been a great resurgence of Poker, and it is now on television almost every night of the week, including overseas television. Because of the uniqueness of DigiDeal technology, the rise in popularity of Poker has opened an opportunity for DigiDeal to develop more traditional casino-type games. DigiDeal liked the concept of the games being player-banked, or non-house-banked, and developed a game called Trips. The game of Trips was submitted to the Washington Gaming Lab last October, and the game technically checked out, except for language in WAC 230-40-070(1)(c) stating that electronic card facsimiles could only be used for house-banked card games. DigiDeal was proposing a non-house-banked game. DigiDeal came up with three Poker ideas, including the game Texas Hold-Em, which would require a touch screen and more advanced technology. Trips is a five-card stud Poker game, where all the cards are dealt face up. The objective of the game is to get a hand of three of a kind, or better, to win the pot. Trips is not a bet and raise game, it is a bet or fold game – a player either bets to see the next card or folds their hand. **Mr. Martin** continued demonstrating the game play. The game has two wild cards making it a 54-card deck. Each player's screen records a running tally of the pot. One issue with the originally designed game was that if no player won, the pot rolled over to the next round. In this particular format, when a player won the hand on the first round it is a non-house-banked game, a player-banked game. **Mr. Martin** affirmed there were other issues about this game that needed to be resolved and they are being worked out with Commission staff.

**Chair McLaughlin** commented that several years ago when nonprofit Bingo operators requested approval for electronic Bingo, Legislative approval was required, and she questioned why this operation didn't have to go to the Legislature for approval. **Mr. Ackerman** explained the Commission would only have to go to the Legislature if this were an expansion of gambling or something the Commission wasn't authorized to permit. **Chair McLaughlin** asked why the Commission wasn't authorized to approve electronic Bingo. **Ms. Blume** responded that it was because of the way Bingo was defined in the statute, making it clear that Bingo was meant to be on paper cards and that when the Legislature defines a game; there isn't much room for interpretation. **Mr. Ackerman** pointed out that when DigiDeal brought their proposed electronic Blackjack game before the Commission, the Commission confronted the issue regarding the definition of "cards" and whether the statute actually required paper cards or whether it could be defined as an essence of paper cards, allowing an electronic facsimile. **Mr. Ackerman** felt that the Commission had that latitude at the time. **Mr. Martin's** proposal appears to be, in essence, the same question. The rule, as it is currently written, deals with the gambling device issue by stating that these games cannot be played against the machine. In other words, there has to be a dealer involved in the game, which was the principal issue with electronic Blackjack – it couldn't be played directly against the machine. The electronic blackjack game **Mr. Martin** has represented requires a dealer and, in essence, a deck of cards. **Mr. Martin** has explained the Trips game could be

played with paper cards, the Blackjack table could be played with paper cards, and the Texas Hold-Em game is already being played with paper cards. All DigiDeal has done is take traditional games that could be played with paper cards and put them on their platform with electronic card facsimiles. **Chair McLaughlin** called for public testimony.

**Brook Dunn**, Senior Vice President of Shufflemaster asked whether the Commission was defining “dealer” as a physical dealer or a virtual dealer. **Chair McLaughlin** responded that it was a physical dealer. Mr. Dunn inquired if the Commission was now defining cards as virtual, where would the Commission draw the line. **Director Day** referred to the present statute, stating the Commission draws the line at allowing electronic card facsimiles and requiring a dealer, the only change in the game would be allowing the facsimile of cards. Mr. Dunn hoped the Commission understood that the virtual dealer does not make a decision. Physical dealers have rules they must conform to – whether to hit or not hit based on what the dealer’s cards show. He believed a virtual dealer could be replacing a physical dealer. **Mr. Ackerman** clarified that a virtual dealer would probably violate the statutory prohibition against playing against a device. Mr. Dunn thought that was one of the reasons the Commission approved DigiDeal’s 21 game. Mr. Ackerman responded the Commission was assured there would be a person employed by the gambling facility to operate the device as the rules required. If it were a stand-alone device allowing a player to walk up and play, it would violate the current Revised Code of Washington. Mr. Dunn asked if a game would be allowed where the dealer stood next to the machine and pushed a button to either hit or stand, but the game paid out in virtual chips. Mr. Ackerman suggested that if Mr. Dunn had a proposal, he should bring it forward in the form of a petition for rule making, and Commission staff would examine it with regard to all the applicable statutes and decide whether it would be legal. **Commissioner Niemi** reminded everyone that the issue before the Commission today was DigiDeal and felt it was not proper to question the Commission about RCWs or the definition of dealer at this time.

**Mr. Martin** repeated that the patented digital card system requires a dealer as part of the patent. DigiDeal believes the fun of casino gambling occurs at tables, with people and with dealers.

**Commissioner Parker** asked how an establishment would make any income from a table game where players are just playing against each other. **Mr. Martin** explained that the ante was considered a fee to play (sometimes called a rake). DigiDeal technology plays the cards faster and shuffles instantaneously, causing the dollars to increase quickly for the casinos.

**Director Day** said that although this system protects against dealer collusion to a certain extent, some of the security concerns switch toward the technology involved and the possibility of tampering. Staff has a great deal of respect for the ability of electronic games. He affirmed the issue of security, protection, and the integrity of the game can be addressed by staff and DigiDeal. He noted that casinos around the world probably spend millions of dollars ensuring that each of the systems and the chips that operate the programs are secure and have not been tampered with. **Commissioner Parker** asked if Director Day knew where similar games were played, what regulatory capability was needed, and whether staff has looked at other jurisdictions. Director Day responded that most of the games are played in a

casino-type environment and the surveillance is similar to, or more sophisticated than, what is currently in Washington house-banked card rooms. It is a similar type of security operation that is currently used with TLS type machines and other electronic facsimile machines that use computer enhancements to operate the game. Staff is not concerned about allowing this type of system in house-banked card rooms because surveillance is already required and with electronic facsimile-type games, the programs are usually sealed within.

**Commissioner Niemi** asked if the agency would have to routinely check these machines. **Director Day** affirmed and added that, as Mr. Martin has described, the programs that operate these games are sent to a laboratory for approval, then the programs are tested by our agency's gambling lab and the approved program must be sealed and locked in before it can be used. The surveillance ensures that nobody touches it. Commissioner Niemi asked about extra FTEs. Director Day understood there would be none at this point; however, if this were to grow, it could become a different concern.

**Commissioner Orr** pointed out that the debate was not so much whether Washington uses the devices, but whether DigiDeal could manufacture them. Commissioner Orr thought Mr. Martin was asking the Commission for approval for manufacturing the machines in Washington. Although the machines may never be seen in Washington, if the company can manufacture them in Washington, they can sell the machines throughout the world.

**Mr. Tull** thanked the Commissioners and underscored that one part of the entire regulatory program in this state involves matching surveillance and other supervision to a perceived risk environment. DigiDeal is not resistant to requiring that the electronic facsimile be played in house-banked card rooms where the surveillance and other procedures are in place. DigiDeal is not debating that issue and believe that the authorization process already carries with it a great deal of scrutiny. Approval would allow this company and its clients additional business opportunities and would not harm the regulatory environment. Mr. Tull offered to revisit any or all of the items and focus on any other concerns in a final presentation next month. Mr. Tull felt the revision was well within the scope of the original petition and thanked the Commissioners for their time.

**Chair McLaughlin** called for a recess at 11:10 a.m. and reconvened at 11:20 a.m.

### **13. Promotions:**

#### **WAC 230-12-045**

**Ms. Blume** reported this rule was filed after the March commission meeting and is up for discussion. The rule deals with promotions that licensees offer in conjunction with gambling activities. The original promotions package was passed in 2001, after a lot of discussion about the difference between a gambling promotion and a promotional contest of chance. Because both staff and licensees had questions about the interpretation, minor changes were made to the language. Staff recommends further discussion. **Chair McLaughlin** called for public testimony – there was none. (Commissioner Parker left the meeting.)

#### **14. Petition for Rule Change – Request to Allow Carry-Over Jackpots for Event Pull-Tab Series:**

**WAC 230-30-033**

**Ms. Blume** reported this petition was up for discussion and possible filing. The Commissioners have 60 days to act on a petition, requiring action be taken at this meeting. The petitioner is Roger Wetland, a sales representative for the manufacturer Bonanza Press. The petition proposes combining two types of approved pull-tab games to create a new type of game. One is called an event pull-tab game, because the event that is occurring is the Bingo game – a player would be playing the Bingo game and then also the pull-tab game. Event pull-tabs were allowed in March 2001. The other type of game is the carry over pull-tab, which is also currently allowed. A carry over game is a regular pull-tab game allowing a winner to carry over to another pull-tab game. This petition combines the two concepts – event pull tabs and carry-over pull tabs. Staff have no regulatory concerns with allowing this concept. One of the reasons combining the games wasn't allowed previously was because event pull-tabs were new and staff wanted to see how the system worked. **Ms. Blume** explained that players wouldn't be required to play both Bingo and pull-tabs; they may choose to only play Bingo. **Ms. Blume** reviewed the three options the Commission have with a petition – file it, deny it, or propose an alternative. Staff recommend filing for further discussion. **Chair McLaughlin** called for public testimony.

**Roger Wendland**, Bonanza Press explained that the difference between the pull-tabs and the Bingo event is that players play the Bingo event in conjunction with a Bingo game. Normally, Bingo halls have a pull-tab bar and between sessions, players would buy pull-tabs and play them. When the pull-tabs are played in conjunction with the Bingo game, floor workers sell tickets to Bingo players. Event pull-tabs have been very successful elsewhere and are becoming more popular in Washington. **Chair McLaughlin** asked if the pull-tabs and Bingo games were separate, or if it was just a matter of when the pull-tabs are sold. **Mr. Wendland** affirmed.

**Don Kaufman**, President of Washington Charitable and Civic Gaming Association, requested support of petition. **Mr. Kaufman** explained that they are two separate games; however, they are run side by side and one plays into the other. A player buys the pull-tabs and when one has a Bingo number on it, the player holds it and attempts to get as many Bingo numbers as possible. The objective of the carry-over jackpot is to hold a player's attention until the end and create more excitement by offering a chance to move up in prizes. **Mr. Kaufman** reported that this has been a very positive activity in his area and the pull-tab buy has gone up significantly. The organization desires to maintain that buy and believes this type of add-on should help. **Mr. Kaufman** requested the Commission consider implementing the rule 30 days after filing to allow the licensees to start using the concept.

**Commissioner Ludwig** made a motion seconded by **Commissioner Niemi** to file the proposal for further discussion. *Vote taken; the motion passed unanimously.*

## **15. Logo Cards:**

### **WAC 230-40-070**

**Ms. Blume** reported this rule is up for discussion and possible filing. The rule was proposed at the request of several licensees and deals with logo cards. Because logo cards are specific and unique to a particular card room, they provide an additional security feature preventing outside cards from being introduced into the game. The number of manufacturers doing business in Washington that produce logo cards has apparently decreased, making them difficult to locate. Staff received a request from some Class E and F card rooms to use cards without logos. Class E and F card rooms are the more traditional Poker rooms with fewer tables. The rule continues requiring house-banked card rooms to use logo cards, with added language requiring all games offering player-supported jackpots to use logo cards. Staff considered this important because of the significant pots of money, which belongs to the players. Staff felt the need for the security of the logo cards on those games. This rule change would assist about six licensees who would no longer be required to use logo cards. Staff recommends filing for further discussion.

**Chair McLaughlin** asked whether it could be handled the same by allowing the licensees to use a deck of logo cards more than once. **Assistant Director Cass-Healy** responded that licensees are allowed to use the logo decks more than once, and the licenser makes the decision on when to pull a deck of cards.

**Commissioner Ludwig** asked whether the proposed rule also accommodates what DigiDeal was previously approved to do and possibly those games that are pending. **Ms. Blume** didn't think there would be a connection between this rule proposal and what DigiDeal has been proposing. Commissioner Ludwig pointed out that there was a provision on products and assembly line. Ms. Blume agreed that the rules overlap and amendments were made to the same rule. Staff knew there were two rules that related to each other. Staff believed it would be clearer to have the logo cards proposed as one rule and the DigiDeal petition separately because the issues are different. **Chair McLaughlin** called for public testimony; there was none.

**Commissioner Orr** made a motion seconded by **Commissioner Ludwig** to file WAC 230-40-070. *Vote taken; the motion passed unanimously by the four Commissioners present.*

## **16. Other Business/General Discussion/Comments from the Public**

**Chair McLaughlin** called for any further comments – there were none. With no further business, the meeting was adjourned at 11:20 a.m. Chair McLaughlin advised the next meeting was scheduled for May 13 and 14, 2004, in Spokane at the Red Lion Hotel at the Park.

Minutes submitted by:  
Gail Grate, Administrative Assistant